

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CAUSE OF ACTION,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:13-cv-920
)	
INTERNAL REVENUE SERVICE,)	
)	
Defendant.)	

DECLARATION OF GREGORY M. MILLER

I, GREGORY M. MILLER, pursuant to the provisions of 28 U.S.C. § 1746(2), declare as follows:

1. I am an attorney with the Office of Chief Counsel, Treasury Inspector General for Tax Administration (TIGTA). I have held this position since January 2, 2000. As part of my official duties, I assist the Department of Justice in defending litigation filed under the Freedom of Information Act (FOIA) against TIGTA.
2. As part of my official duties, I am assigned as the attorney on the case in which this declaration is being filed. I am familiar with all documents and issues in this lawsuit insofar as they pertain to TIGTA's preparation of a response to plaintiff's FOIA request.
3. By letter dated October 9, 2012 (copy attached as Exhibit A to this declaration), plaintiff submitted a FOIA request to the Internal Revenue Service

(IRS). In this request, plaintiff sought: (1) all documents constituting communications to and/or from any employee of the IRS concerning any FOIA request or lawsuit that relates to Internal Revenue Code (I.R.C.) § 6103(g); (2) all documents referring or relating to any communication described in request (1); (3) any communications by or from anyone in the Executive Office of the President constituting requests for taxpayer or “return information” within the meaning of I.R.C. § 6103(a) that were not made pursuant to I.R.C. § 6103(g); (4) all documents referring or relating to any communication described in request (3); (5) all requests for disclosure by any agency pursuant to I.R.C. §§ 6103 (i)(1), (i)(2) and (i)(3)(A); (6) all documents referring or relating to records described in request (5); (7) all documents pertaining to any investigation by TIGTA into the unauthorized disclosure of I.R.C. § 6103 “return information” to anyone in the Executive Office of the President; and (8) from the time period of March 27, 2012 to October 9, 2012, all documents, constituting or relating to a request by the President or anyone designated by the President in his Executive Office for tax records under I.R.C. § 6103(g)(1).

4. On or about October 30, 2012, the IRS transferred item (7) of plaintiff’s FOIA request to TIGTA for its processing and direct reply to the requester. TIGTA received this request on October 31, 2012.

5. By letter dated November 30, 2012 (copy attached as Exhibit B to this declaration), the TIGTA Disclosure Officer responded to plaintiff’s FOIA request. In this letter, plaintiff was advised that with respect to its request for documents pertaining to a third party, TIGTA can neither admit nor deny the existence of

responsive records. Plaintiff was further advised that its request seeks access to the types of documents for which there is no public interest that outweighs the privacy interests established and protected by FOIA exemptions (b)(6) and (b)(7)(C). Finally, plaintiff was notified that TIGTA's response should not be taken as an indication that any records responsive to its request exist, and that this is TIGTA's standard response to FOIA requesters seeking records regarding third parties.


6. By letter dated June 12, 2013 (copy attached as Exhibit C to this declaration), plaintiff filed an administrative appeal of TIGTA's response to plaintiff's FOIA request.

7. Plaintiff filed the instant action on June 19, 2013.

8. By letter dated July 10, 2013 (copy attached as Exhibit D to this declaration), TIGTA responded to plaintiff's administrative appeal. In this letter, TIGTA affirmed the Disclosure Officer's determination that it may neither admit nor deny the existence of any records responsive to plaintiff's FOIA request. Plaintiff was advised that admitting or denying the existence of responsive records would injure privacy interests protected by FOIA exemptions (b)(6) and (b)(7)(C), and (b)(3), in that it could disclose return information specifically protected from disclosure by I.R.C. § 6103.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 24, 2013, in Sterling, Virginia.



GREGORY M. MILLER
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